

**Petition for Relief From a Conviction or Sentence
By a Person in State Custody**

(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)

Instructions

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original and two copies to the Clerk of the United States District Court at this address:

See attachment for address

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

FORT MYERS DIVISION

The Following Counties Comprise the Fort Myers Division: Charlotte, Collier, DeSoto, Glades, Hendry, and Lee

Complaints Filed in the Fort Myers Division Should be Mailed to:

Clerk's Office, United States District Court
U.S. Courthouse and Federal Building
2110 First Street, Room 2-194
Fort Myers, FL 33901

JACKSONVILLE DIVISION

The Following Counties Comprise the Jacksonville Division: Baker, Bradford, Clay, Columbia, Duval, Flagler, Hamilton, Nassau, Putnam, St. Johns, Suwannee, and Union.

Complaints Filed in the Jacksonville Division Should be Mailed to:

Clerk's Office, United States District Court
U.S. Courthouse
300 North Hogan Street, Suite 9-150
Jacksonville, FL 32202

OCALA DIVISION

The Following Counties Comprise the Ocala Division: Citrus, Lake, Marion, and Sumter.

Complaints Filed in the Ocala Division Should be Mailed to:

Clerk's Office, United States District Court
Golden-Collum Memorial Federal Building and U.S. Courthouse
207 N.W. Second Street, Box 11
Ocala, FL 34475

ORLANDO DIVISION

The Following Counties Comprise the Orlando Division: Brevard, Orange, Osceola, Seminole, and Volusia.

Complaints Filed in the Orlando Division Should be Mailed to:

Clerk's Office, United States District Court
George C. Young U.S. Courthouse and Federal Building
80 North Hughey Avenue, Room 300
Orlando, FL 32801

TAMPA DIVISION

The Following Counties Comprise the Tampa Division: Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota.

Complaints Filed in the Tampa Division Should be Mailed to:

Clerk's Office, United States District Court
Sam M. Gibbons U.S. Courthouse
801 North Florida Avenue
Tampa, FL 33602

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court	District _____
Name (under which you were convicted): _____	Docket or Case No.: _____
Place of Confinement: _____	Prisoner No.: _____
Petitioner (<u>include</u> the name under which you were convicted) _____ Respondent (authorized person having custody of petitioner) _____ v. _____	
The Attorney General of the State of _____	

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: _____

- (b) Criminal docket or case number (if you know): _____
2. (a) Date of the judgment of conviction (if you know): _____
- (b) Date of sentencing: _____
3. Length of sentence: _____
4. In this case, were you convicted on more than one count or of more than one crime? Yes ☐ No ☐
5. Identify all crimes of which you were convicted and sentenced in this case: _____

6. (a) What was your plea? (Check one)

(1) Not guilty <input type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? _____

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☐

Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☐

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☐

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you seek further review by a higher state court? Yes ☐ No ☐

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐ No ☐

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☐ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

 (6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(3) Third petition: Yes ☐ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: _____

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) If you did not exhaust your state remedies on Ground One, explain why: _____

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: _____

GROUND THREE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

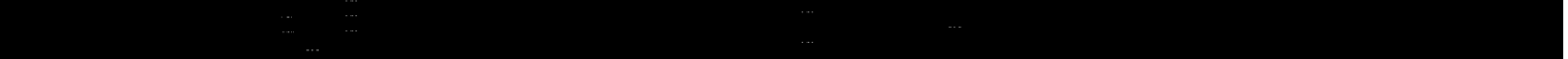
(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____



Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) If you did not exhaust your state remedies on Ground Four, explain why: _____

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____
-
-
-

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____
-
-
-

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

[illegible]

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: _____

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this
Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____
_____ (month, date, year).

Executed (signed) on _____ (date).

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing
this petition. _____

* * * * *

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

Affiant

v.

CASE NUMBER: _____

(To be supplied by
Clerk's Office)

Defendant(s)

AFFIDAVIT OF INDIGENCY

(EACH PLAINTIFF MUST COMPLETE A SEPARATE AFFIDAVIT OF INDIGENCY)

I, _____, being first duly sworn, depose and make under oath the following application and affidavit, pursuant to Title 28 U.S.C. § 1915, to proceed in forma pauperis in the United States District Court for the Middle District of Florida. I am unable to make prepayment of fees and costs or to give security therefor, and it is my belief that I am entitled to redress, and that I have not, for the purpose of avoiding payment of said cost, divested myself of any property, monies, or any items of value.

I. BRIEF STATEMENT OF THE NATURE OF THE ACTION: _____

II. RESIDENCE:

Affiant's address: _____
(Street)

(City) (State) (Zip Code)

III. MARITAL STATUS:

1. Single ☐ Married ☐ Separated ☐ Divorced ☐

2. If married, spouse's full name: _____

IV. DEPENDENTS:

1. Number: _____

2. Relationship to dependent(s): _____

3. How much money do you contribute to your dependents' support on a
monthly basis? \$ _____

V. EMPLOYMENT: (Information provided below applies to your present employment or last employment.)

1. Name of employer: _____

a. Address of employer: _____
(Street)

(City) (State) (Zip Code)

b. State how long affiant has been (was) employed by present (or last) employer?

Years: _____ Months: _____

c. Income: Monthly \$ _____ or Weekly \$ _____

d. What is (was) affiant's job title? _____

2. If unemployed, date of last employment: _____

3. Is spouse employed? _____ If so, name of employer: _____

a. Income: Monthly \$ _____ or Weekly \$ _____

b. What is spouse's job title? _____

4. Are you and/or your spouse receiving welfare aid?

If so, amount: Monthly \$ _____ or Weekly \$ _____

VI. FINANCIAL STATUS:

1. Owner of real property (excluding ordinary household furnishings and clothing):

a. Description: _____

b. Full address: _____
(Street)

(City) (State) (Zip Code)

c. In whose name? _____

d. Estimated value: \$ _____

e. Total amount owed: \$ _____

Owed to: _____ for \$ _____

_____ for \$ _____

f. Annual income from property: \$ _____

2. Other assets/property:

a. Automobile: Make _____ Model _____

In whose name registered? _____

Present value of car: \$ _____

Amount owed: \$ _____

Owed to: _____

b. Total cash in banks, savings and loan associations, prisoner accounts, financial institutions,

other repositories, or anywhere else: \$ _____

- c. List monies received during the last twelve (12) months into your hands, into banks, savings and loan associations, prisoner accounts, other financial institutions, or other sources as indicated below:

Business, profession, or other forms of

self employment:

\$ _____

Rent payments, interest, or dividends:

\$ _____

Pensions, annuities, or life insurance payments:

\$ _____

Gifts or inheritances:

\$ _____

Stocks, bonds, or notes:

\$ _____

Other sources:

\$ _____

3. Obligations:

a. Monthly rental on house or apartment:

\$ _____

b. Monthly mortgage payments on house:

\$ _____

4. Other information pertinent to affiant's financial debts and obligations:

_____	_____	_____
(Creditor)	(Total Debt)	(Monthly Payment)
_____	_____	_____
(Creditor)	(Total Debt)	(Monthly Payment)
_____	_____	_____
(Creditor)	(Total Debt)	(Monthly Payment)

Other (explain): _____

VII. FOR PRISONER AFFILIANTS ONLY:

1. Date(s) of incarceration: _____
2. Estimated release or parole date: _____
3. A copy of the prisoner's account statement containing all transactions in affiant's prisoner account for the six (6) months immediately preceding the filing of the Complaint or Petition must accompany this Affidavit. The account statement must be obtained from an authorized

official of each prison at which the prisoner is or was confined during this period of time. The account statement must be in the form of a computer printout or bank ledger card prepared by the institution or an account statement prepared by an authorized officer of the institution. Failure to provide this account statement may result in the dismissal of this action.

The requirement to submit the account statement does not negate the prisoner affiant's responsibility to ensure that the Affidavit Certificate found on page 6 of this Affidavit of Indigency is also properly executed and filed.

VIII. ALL AFFIANTS MUST READ AND SIGN:

I UNDERSTAND that any false statement(s) of a material fact contained herein may serve as the basis of prosecution and conviction for perjury or making false statements. **FURTHER, I CERTIFY** that all questions contained herein have been answered and are true and correct to the best of my knowledge and belief.

Signature of Affiant

STATE OF FLORIDA

COUNTY OF _____

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 20__, BY _____
(Insert Name of Person Acknowledged)

WHO IS PERSONALLY KNOWN TO ME OR WHO HAS PRODUCED _____
_____, AS IDENTIFICATION AND WHO (DID) (DID NOT) TAKE
(State Type of Identification)

AN OATH.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

AFFIDAVIT CERTIFICATE
(Prisoner Accounts Only)

I HEREBY CERTIFY THAT _____, has the sum of
(Name of Affiant)

\$ _____ **as of** _____ **on account to his**
credit at the _____ **(date)**

_____ **institution where he is confined. I further certify that the**
above named prisoner affiant has the following securities to his credit according to the records of this
institution:

Authorized Officer of Institution